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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/778,470	02/07/2001	Cheree L. B. Stevens	ADV12 P300A	4695

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EXAMINER	
TRAN LIEN, THUY	

ART UNIT	PAPER NUMBER
1761	

DATE MAILED: 02/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

A7

Advisory Action	Application No.	Applicant(s)	
	09/778,470	STEVENS ET AL.	
	Examiner	Art Unit	
	Lien T Tran	1761	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 February 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☒ The proposed amendment(s) will not be entered because:

   (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ they raise the issue of new matter (see Note below);

   (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Continuation Sheet*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a)☒ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: *none*.

   Claim(s) objected to: *none*.

   Claim(s) rejected: *49-111*.

   Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☐ Other: _____

Lien Tran

LIEN TRAN
PRIMARY EXAMINER
Group 1700

Continuation of 2. NOTE: The amendment to claims 49, 92 and 111 will be entered because the amendment overcomes the 112 first and second paragraph rejection; this will reduce the issue upon appeal. The amendment to claim 82 will not be entered because it raises a new isue and the issue of new matter. The new claims will not be entered for reason set forth in part (d) above and also they raise new issue.

Continuation of 5. does NOT place the application in condition for allowance because: the argument is not found to be persuasive. The 112 second paragraph rejection of claim 49, 92 and 111 ia maintained for the same reason set forth in the last office action. In the response filed Feb. 2, 2004, applicant argues the term " substantially free of cornstarach" means " in the main, devoid of cornstarch". This is the definition applicant gives to the term in the response; the specification does not give any such meaning. Applicant cites the definition from Webster's dictionaray; however, such definition does not help in the context of what is being claimed. For example, applicant cites the term means " devoid; also, outside; beyond" ; what does " substantially devoid means". The specification does not define "substantially free". In fact, the specifcation disclose, 10% or even more corn starch can be used and the examples disclose 0% cornstarch. Thus, it is not clear what range of cornstarch is covered with such language. With respect to the rejections over the Horn et al reference, applicant argues the term " substantially free of corn starch" mean " in the main devoid of cornstarch" and as such the claims do not read on Horn et al which requires at least 2% cornstarch. The examiner respectfully disagree with applicant. The claims are interpreted in light of the specification. Since applicant does not define the amount of corn starch that is considered " substantially free of corn starch", this language is interpreted to mean that the composition can contain small amount of corn starch. Horn et al teach 2%; this amount is small in comparison to the other components; thus, the composition is substantially free of corn starch. The specificaiton discloses 10 or even more; this amount is larger than the amount disclosed by Horn et al. .